

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

Claims 1-39, 41, 44, and 54-56 are now canceled. Claim 40 is amended to include the language of claim 44. Claims 45, 50, and 51 are amended due to the cancellation of claim 44. Accordingly, entry of this amendment is respectfully requested.

Rejection under 35 U.S.C. §103(a) – Kimmel et al.

At page 3 of the Office Action, the Examiner rejects claims 40, 42-53, and 57-63 under 35 U.S.C. §103(a) as being unpatentable over Kimmel et al. (U.S. Patent Application Publication No. US 2001/0036056 A1). With regard to the flow of the powder, the Examiner believes that this is inherent in the product of Kimmel et al., since similar particle size and surface areas are shown in Kimmel et al. With regard to the Declaration under 37 C.F.R. §1.132 previously filed by the applicants to show that the flow rates of the powders in Kimmel et al. are not within the claimed range of 300-1000 mg/s, the Examiner questions whether the recited test standard in the claims was used for the flow measurements of the powder of Kimmel et al. in the §1.132 Declaration. This rejection is respectfully traversed.

In the Declaration under 37 C.F.R. §1.132 filed by applicants on December 18, 2008, it was shown that the flow rates of Kimmel et al. were well below 300 mg/g; whereas, in the present invention, high flow rates were achieved on the order of 300 mg/s and above. Kimmel et al. does not inherently show flow rates as set forth in claim 40. To respond to the Examiner's question regarding the standard used for the flow measurements provided in the previously filed §1.132 Declaration, the applicants submit a Supplemental Declaration under 37 C.F.R. §1.132 by the same

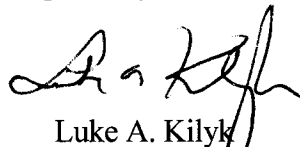
inventor indicating that the standard used for the flow measurements set forth in the §1.132 Declaration filed December 18, 2008 was ASTM B 213. Thus, the flow rates of Kimmel et al., under ASTM B 213, were well below 300 mg/g; whereas, in the present invention, under the same standard, high flow rates were achieved on the order of 300 mg/s and above. Thus, Kimmel et al. does not inherently have the flow rates as set forth in claim 40. Accordingly, the claims are not taught or suggested by Kimmel et al. and the rejection should be withdrawn.

CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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Attachment: Supplemental Declaration under 35 C.F.R. §1.132 (2 pages)